UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, MICHIGAN,	.	Docket No. 13-53846
	.	Detroit, Michigan
	.	February 25, 2014
Debtor.	.	2:01 p.m.
. . . . .		

HEARING RE. MOTION OF THE CITY OF DETROIT FOR APPROVAL OF DISCLOSURE STATEMENT PROCEDURES (DKT#2714)
BEFORE THE HONORABLE STEVEN W. RHODES
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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For Detroit Retirement Systems-General Retirement System of Detroit, Police and Fire Retirement System of the City of Detroit:	Clark Hill, PLC By: ROBERT GORDON 151 South Old Woodward, Suite 200 Birmingham, MI 48009 (248) 988-5882

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THE CLERK: All rise. Court is in session. Please be seated. Case Number 13-53846, City of Detroit, Michigan.

THE COURT: Good afternoon. Let's have appearances from counsel who will be representing their clients here on the record today.

MR. HEIMAN: Good afternoon, your Honor. David Heiman, Jones Day, on behalf of the city. With me are Bruce Bennett and Heather Lennox. Thank you.

MR. RYAN BENNETT: Good afternoon, your Honor. Ryan Bennett of Kirkland & Ellis on behalf of Syncora.

MR. MARRIOTT: Good afternoon, your Honor. Vince Marriott, Ballard Spahr, on behalf of EEPK and affiliates.

MR. GORDON: Good afternoon, your Honor. Robert Gordon of Clark Hill on behalf of the Detroit Retirement Systems.

MS. NEVILLE: Good afternoon, your Honor. Carole Neville from Dentons on behalf of the Retiree Committee, and with me is Claude Montgomery.

MS. DIBLASI: Good afternoon, your Honor. Kelly DiBlasi from Weil, Gotshal & Manges on behalf of Financial Guaranty Insurance Company.

MS. COHEN: Good afternoon, your Honor. Carol Cohen from Arent Fox on behalf of Ambac Assurance Corporation.

MR. FISHER: Good afternoon, your Honor. Mark Fisher from Schiff Hardin on behalf of FMS Wertmanagement.

MR. HAGE: Good afternoon, your Honor. Paul Hage, Jaffe, Raitt, Heuer & Weiss, on behalf of National Public Finance Guarantee Corporation.

MR. PLECHA: Good afternoon, your Honor. Ryan Plecha from Lippitt O'Keefe Gornbein on behalf of the Retiree Association parties.

MS. PATEK: Good afternoon, your Honor. Barbara Patek of Erman Teicher on behalf of the Detroit public safety unions.

MS. FISH: Good afternoon, your Honor. Deborah Fish from Allard & Fish on behalf of Dexia Holdings and Dexia Local -- Credit Local. Thank you.

THE COURT: Are there attorneys on the telephone who'd like to place their appearances on the record?

MR. LAROSE: Good afternoon, your Honor. It's Lawrence Larose from Chadbourne & Parke on behalf of Assured Guaranty Municipal Corporation.

THE COURT: Thank you.

MR. GROSS: Good afternoon, your Honor. It's Phillip Gross from Lowenstein Sandler on behalf of AFSCME.

MR. ELLISON: Good afternoon, your Honor. Josh Ellison from Cohen, Weiss & Simon on behalf of the UAW and the Flowers plaintiffs.

MR. ROSENBLAT: Good afternoon, your Honor. Heath Rosenblat of Drinker, Biddle & Reath on behalf of Wilmington

Trust National Association.

MR. MILLER: Good afternoon, your Honor. Brett Miller on behalf of the Official Committee of Unsecured Creditors.

THE COURT: Could you repeat that last one, please?

MR. MILLER: It's Brett Miller on behalf of the Official Committee of Unsecured Creditors.

THE COURT: All right. We're here today on the motion of the city for approval of disclosure statement procedures. I want to make two preliminary observations for your benefit. The first is the Court needs to be persuaded that the inadequacy of the disclosure statement as it has been filed is grounds to adjourn or delay the hearing on the adequacy of the disclosure statement. That logic is not at all clear to the Court. The second is the purpose of this hearing is, as I stated, to determine the city's motion for approval of disclosure statement procedures. We will not be discussing today the order that the Court entered yesterday establishing procedures, deadlines, and hearing dates relating to the debtor's plan of adjustment. I've invited your objections and comments to that order, and when those are received, I will, of course, review those and determine whether and if so when to have a hearing on those objections or comments. Who'd like to go first?

MR. HEIMAN: Thank you, your Honor. David Heiman

for the city. Actually, we were prepared to respond to all questions today, so I will eliminate most of what I was going to say except to say that we're pleased to be here in this new phase of the case, and we do believe that time is of the essence, so I expect Mr. Bennett to be responsive to issues on the disclosure statement itself, and I guess with that, are we taking the objections that were filed that relate to the disclosure statement because if -- rather than waiting till the 28th? If so, it would seem that we might let the objecting --

THE COURT: No. Today is not the day to hear --

MR. HEIMAN: Okay.

THE COURT: -- objections to the adequacy of the disclosure statement.

MR. HEIMAN: All right.

THE COURT: There were, however, objections to the timing of the disclosure statement hearing because of the inadequacy of the disclosure statement, and I expressed my concern that the inadequacy of the disclosure statement is not a reason to adjourn the hearing on the adequacy of the disclosure statement, but I do have some questions for you about your proposed order. Should I address those to you or Mr. Bennett or Ms. Lennox?

MR. HEIMAN: You could start with me, and then I'll pass it off as need be since I'm standing here.

THE COURT: All right. So the attorneys -- the other attorneys for the city are on notice. Okay. I'm concerned about paragraph 10 of the proposed order. Do you have that there with you?

MR. HEIMAN: I do not. Since Ms. Lennox has the order, I'll let her speak to it.

MS. LENNOX: Good afternoon, your Honor.

THE COURT: Okay.

MS. LENNOX: Heather Lennox for the record. Paragraph 10, your Honor.

THE COURT: Yes. I wonder what the need is for really any of it. For example, in paragraph A it would be required that the objection be in writing and in English. Does that need to be in an order?

MS. LENNOX: It probably doesn't, your Honor, but we're trying to be very clear about instructions when it comes to a complicated process like this. We can probably --

THE COURT: With particularity the legal and factual grounds for the objection, well, wouldn't that go to its credibility if it doesn't do that?

MS. LENNOX: It would, your Honor. It would, your Honor.

THE COURT: Be accompanied by evidentiary support. If a party is pointing out an inadequacy it believes is in the disclosure statement, what evidentiary support would

there be? It just seems --

MS. LENNOX: That, your Honor --

THE COURT: -- burdensome.

MS. LENNOX: Correct.

THE COURT: Help me out here.

MS. LENNOX: I agree with your Honor that -- it is not our position that there should be any evidence needed with respect to the consideration of a disclosure statement. The document will speak for itself, and it contains adequate information or it doesn't.

THE COURT: Right.

MS. LENNOX: We have seen, however, some folks and some folks have suggested that they might want to introduce evidence. We don't think that's necessary or appropriate, and I'd be happy to strike this.

THE COURT: All right. Electronic filing is already required by the Court. In Part C I wonder why you need separate service as outlined in Romanettes i, ii, and iii. Why isn't electronic service by ECF sufficient?

MS. LENNOX: This, your Honor, was just going to make sure -- and if persons file electronically by ECF, that is the case. We have seen in this case a few folks that have not done so, and so we wanted to be clear in case there was filing that was not going to be done by ECF the parties that were required for service by Bankruptcy Rule 3017. It's

solely for that purpose.

THE COURT: Well, let's walk through this in baby steps. I thought that if the Court authorized a party to file a paper, whatever the paper is --

MS. LENNOX: Um-hmm.

THE COURT: -- by traditional means, we call it --

MS. LENNOX: Um-hmm.

THE COURT: -- which means not ECF --

MS. LENNOX: Right.

THE COURT: -- or it's a pro se objection and they can't file it by ECF --

MS. LENNOX: Um-hmm.

THE COURT: -- we scan that in and put that scan on the docket, and then that goes out to all parties. Isn't that the case?

MS. LENNOX: If that's that case and that's the procedure that --

THE COURT: Okay. All right.

MS. LENNOX: -- your Honor wants to use, then that's not necessary.

THE COURT: I'll double-check that, but I'm pretty sure that's it.

MS. LENNOX: I agree, your Honor.

THE COURT: All right. Well, really those were my questions then, so if the Court grants your motion, I will

strike paragraph 10.

MS. LENNOX: Thank you, your Honor. There's one issue that I would like to raise with your Honor that's a technical matter with respect to the rules and the proposed dates, and I know we're not talking about the order you entered yesterday, but it does relate directly to what's in front of the Court today and the proposed deadlines. And we are required, of course, under Bankruptcy Rule 2002(b) to give 28 days' service --

THE COURT: Right.

MS. LENNOX: -- plus under 9006 three days for mailing, so that's 31 days' service. We have consulted with KCC, who is our noticing agent here, and there's going to be probably close to -- well, certainly several tens of thousands of notices that go out. They would like 48 hours' notice to prepare those and get them all out the door, so in total from the time we -- your Honor would enter an order and we can start the process until the objection deadline, we may need 33 days. If your Honor approved an order today, we mailed on Thursday, that would take us to an objection deadline of March 31st, so I just wanted to point that out to your Honor.

THE COURT: All right. Well, we'll certainly have to take that into account.

MS. LENNOX: Thank you.

THE COURT: All right. So then I would propose that we hear from parties objecting to the motion, and then we can hear the city's response. Who'd like to go first?

MR. RYAN BENNETT: Good afternoon, your Honor. Again, Ryan Bennett on behalf of Syncora. First, your Honor, to be clear, Syncora and the other objectors joining our paper recognize the need for an orderly schedule with respect to confirmation and the benefits that can inure to the city, its creditors, and its citizens from expediting that schedule. The expedition of that schedule, though, should not come at the cost of process, which is why we filed our objection. We filed our objection primarily because what the debtor filed last Friday is incomplete by its own terms, and until that filing is complete, it's premature and prejudicial to let the debtor's disclosure statement be scheduled for a hearing. To be clear, we are not at this time taking an issue with the disclosure statement with respect to its adequacy for purposes of 1125, but, rather, as a matter of notice and due process, the debtor's filing, which is incomplete on its face by its own terms, should not serve to trigger the requisite 28-day notice period. The filed disclosure statement and incorporated plan include numerous references to material documents implicating claim treatment and creditor recovery, and while the disclosure statement purports to attach such documents --

THE COURT: I just don't understand why it doesn't fully protect whatever your substantive or due process rights to simply give you an opportunity to identify all of those areas where the disclosure statement is inadequate and ask the Court to sustain your objection to the disclosure statement on that ground.

MR. RYAN BENNETT: No. I understand the question, your Honor. I think the issue comes down to incomplete versus inadequate, and incomplete, which is where we are right now, where the debtor may very well and probably will, right, supplement its filing at some point by providing us all with these exhibits that it, on its own, you know, being the author of its own disclosure statement, chose to reference and say were attached and included in this document and pay particular deference to those documents highlighting how important and material they were, but they have not filed those.

THE COURT: So you want me to walk into the swamp that separates incomplete from inadequate?

MR. RYAN BENNETT: I think, your Honor, it's not as much of a swamp because for completeness sake it's just a notice issue; right? It's 2002.

THE COURT: So it's a two-stage process?

MR. RYAN BENNETT: It's 3017.

THE COURT: First I decide it's complete, and then I

decide if it's adequate.

MR. RYAN BENNETT: Your Honor, I think that's correct.

THE COURT: Case law on that?

MR. RYAN BENNETT: Other than just the rules themselves and the debtor being the master of its document here; right? The debtor did not have to include cites to documents and reference them as exhibits if it didn't want to; right? It's the master of its own disclosure statement. And if it wanted to, it could just have ignored those documents or included just blatant basic references.

THE COURT: All right. Assume it had done that. Then you would have objected on the grounds that the document is inadequate, so what's --

MR. RYAN BENNETT: That's correct, sir.

THE COURT: -- so what's the difference?

MR. RYAN BENNETT: That's a different objection, though. The debtor would -- if the debtor chose, for whatever reason --

THE COURT: Same exact objection.

MR. RYAN BENNETT: No. One objection is if the debtor did not include -- referenced the documents as exhibits but did not include. That's an incomplete objection. And the second objection is that the debtor did not reference the documents or --

THE COURT: But ultimately if a creditor doesn't need that exhibit to cast and inform the vote, what difference does it make?

MR. RYAN BENNETT: The creditors don't know, your Honor. The debtor is making a decision to reference these documents as important and material to the disclosure statement. The debtor presumably has seen them, knows what they say, but to date none of the creditors have, and now the debtor is proposing to set a schedule where the 28-day notice period, which the debtor -- which the creditors are entitled to review the document in its entirety and process whether or not it's adequate, is going to start shrinking while the debtor sits on these documents or maybe even produces them from scratch that it references as so material to the disclosure. That is the distinction, your Honor, between incomplete and inadequate, and for that reason we believe that -- and I think you'll hear from the various other creditors as to their particular documents that are referenced and missing so you can get a sense of how that -- their review and access to those documents --

THE COURT: I do not want this to be a hearing on the adequacy of the disclosure statement. It was just filed Friday.

MR. RYAN BENNETT: That's correct, your Honor, and it was filed in an incomplete fashion. Your Honor, on top of

that, you know, to date we've not --

THE COURT: Every creditor who asserts that a disclosure statement is inadequate can contend that it's incomplete, and, therefore, the 28th days shouldn't start to run. We'll never get to confirmation until -- if that's the case, until everyone agrees we have a complete and adequate disclosure statement.

MR. RYAN BENNETT: The debtor filed a document with references to exhibits saying that these exhibits were attached --

THE COURT: Okay. Object.

MR. RYAN BENNETT: -- and they are not attached, Judge.

THE COURT: File your objection tomorrow.

MR. RYAN BENNETT: Well, eventually the debtor will provide these exhibits and maybe provide them two days before the hearing.

THE COURT: Maybe; maybe not.

MR. RYAN BENNETT: Well, in that case, you're right. Then that would be a clear inadequacy objection at that point.

THE COURT: Or it will -- or it will amend the disclosure statement to take out the reference.

MR. RYAN BENNETT: It could do that as well also at its own peril, but to date it seems --

THE COURT: Always at its own peril.

MR. RYAN BENNETT: -- it seems to be as if the debtor intends to provide these documents at some later date jamming them on the creditor body, all of whom are standing here objecting on the same grounds, and at that point the 28-day period that we were entitled to has just been absorbed.

THE COURT: Um-hmm.

MR. RYAN BENNETT: And, your Honor, I mean also the city's proposal with respect to its motion does, you know, also call into question whether we will be -- have access to reasonable discovery for purposes of, you know --

THE COURT: There will be no discovery on the adequacy of the disclosure statement.

MR. RYAN BENNETT: But the --

THE COURT: I've never heard of that, never seen it. The issue is one of law. We look at the disclosure statement. We decide if it's adequate.

MR. RYAN BENNETT: Understood, your Honor, but the disclosure statement is the first step in the plan confirmation process.

THE COURT: That's true.

MR. RYAN BENNETT: And to date the creditors have made a number of requests for discovery, and your Honor judiciously has decided to put those off to plan confirmation, most of them, and now we're here, and it's plan

confirmation time. There are going to be a number of issues, and it's very hard to separate legal from factual issues when it comes to confirmation talking about value distribution, claim amounts, things like that, and so we do want --

THE COURT: What's the point in the context of this motion?

MR. RYAN BENNETT: The point in the context of this motion is that before that hearing is set on the adequacy of the disclosure statement, we should get the ball rolling on discovery.

THE COURT: Okay. I look forward to your comment on that in regard to my order of yesterday because my order of yesterday does suggest when discovery will start.

MR. RYAN BENNETT: Yeah. We do plan to confer and provide our suggestions, your Honor. I'm going to yield to my other colleagues here.

THE COURT: Okay.

MR. RYAN BENNETT: Thank you, sir.

MR. MARRIOTT: Good afternoon, your Honor. Vince Marriott, EEPK. I'll be short because others need to speak, and I was co-objector with Syncora. Two things. One, you were concerned about whether you need to weigh in on both completeness and adequacy to the extent they're different. Understand that our objection as to completeness is only that the disclosure statement be complete by its own terms, not

that you decide whether or not it's complete, but that something be filed that attaches all the exhibits and all the documents that it itself refers to. That's just a ministerial act, doesn't require any judgment by this Court about whether or not it now is complete. We're just asking that it be complete by its own terms before the clocks start running on objecting.

The other point I would make -- and it relates a little bit to your order, but I'll make it because I think it's relevant to this discussion. As and till the disclosure statement and the plan are complete, it is nearly impossible to figure out material terms of the treatment provided by the plan to the various creditor constituencies. The way your order presently contemplates the process working, objection to this --

THE COURT: That sounds like a really good ground to object to confirmation of the plan.

MR. MARRIOTT: But, your Honor, it seems to me that a process that allows us to review and craft objections to complete documents is more efficient than one that has us objecting to incomplete documents, having an objection upheld because they're incomplete, having them completed, and then running through the process again. That's our only point.

MR. GORDON: Good afternoon. For the record again, Robert Gordon of Clark Hill, your Honor. Your Honor, I'm

going to try to address exactly what you've raised as issues here. To ask for a hearing and procedures surrounding a disclosure statement, you have to have a disclosure statement, and just because you call a document a disclosure statement doesn't make it a disclosure statement. If you're looking for a rule --

THE COURT: Why not?

MR. GORDON: Because we don't elevate form over substance, and this would be elevating form over substance. This document is so blatantly on its face deficient that no reasonable person could say that this document could even begin to meet the standard for adequate information --

THE COURT: Right.

MR. GORDON: -- under 1125, so why would we --

THE COURT: Assuming you're right --

MR. GORDON: Yes.

THE COURT: Assuming you're right, why doesn't it protect whatever interests you have in this process simply to object on that ground?

MR. GORDON: Because when it's this inadequate, you don't even know what you don't know. So, for example, under the procedures that you've laid out --

THE COURT: You never know what you don't know.

MR. GORDON: Well, wait a second. You gave us till March 14th to identify the documents that we'd like to see in

the disclosure statement and the information, but we don't even have --

THE COURT: Additional information.

MR. GORDON: But we don't have even -- but there's not even rudimentary information here, so we will list all the documents that haven't been attached, and then on March 27th, the day before objections are due, they could produce all those documents, and guess what? Those documents could reference other documents that are also not attached but that we didn't list. It becomes a --

THE COURT: And if all of that is so --

MR. GORDON: And it's more inefficient.

THE COURT: -- then the disclosure statement will not be approved.

MR. GORDON: It's just a very inefficient process, your Honor, and it shifts the burden to the creditors to guess at what should be in here. If the Court wants to go down this path, obviously it can, but it seems to us that in the first instance a disclosure statement ought to be a real disclosure statement in order to start the clock running on everybody doing this process. This disclosure statement is not a disclosure statement.

In addition, as we pointed out in our objection, the disclosure statement itself says that the debtor looks forward to the next phase in which it hopes to have

agreements with various parties in interest, so by its own concession, the document is going to change, so it raises again the question of both judicial and professional efficiency and use of resources. If the document is going to change, then why would we be scheduling anything on this? Those are our concerns, your Honor, but beyond that, the other things we've pointed out in our papers I think speak for themselves and I think raises --

THE COURT: In Chapter 11, the first disclosure statement is often not the last one and changes as settlements come in. Yes?

MR. GORDON: With all due respect, your Honor, I've never seen a disclosure statement this devoid of --

THE COURT: Answer my question.

MR. GORDON: Yes, it can change. Of course it can.

THE COURT: Often does.

MR. GORDON: It does, but this is different. This is completely different in degree. That's true in the abstract, your Honor, but this is of a different degree, and that's the reason why we're interposing the objection today.

THE COURT: All right.

MR. GORDON: Thank you, your Honor.

MS. NEVILLE: Carole Neville.

THE COURT: Do you have a different point to make?

MS. NEVILLE: Yes, I do. I have two different

points.

THE COURT: Oh, great.

MS. NEVILLE: The first different point is that it is really the incompleteness of the plan that is underlying this objection, and I look at it from the retirees' point of view. I don't think that there is a retiree who can figure out what the treatment is under this plan, and the disclosure statement has supplemental documents which are not supplemental but integral to the treatment of the retirees, so the filing of them -- without the filing of them at the beginning, you really can't go forward with a disclosure statement hearing. That's point number one.

Point number two, there isn't a single creditor constituent that supports this plan right now, and sending this proposal out now with an objection deadline that is actually March 14th because that's when we have to notify the debtor of our objections sets the parties into a more confrontational mode than is really helpful at this point. We're looking at a total cramdown plan. I don't know how that happens, although I'm sure some creditor will be created to support the plan. And what we should be working on now is the negotiations towards a consensual plan, not litigation about adequacy of disclosure or the confirmability of the plan, so --

THE COURT: So you would request a period of how

many months to stay all procedures while you negotiate?

MS. NEVILLE: Not a matter of months, your Honor, not a matter of months, and certainly --

THE COURT: The case was filed in July. You've been presumably negotiating or many of you have since then.

MS. NEVILLE: We have, your Honor.

THE COURT: Sooner or later we have to get to it.

MS. NEVILLE: Yes, we do, but right now with the terms of the plan as stated, there is not a single creditor that supports this plan, so we are --

THE COURT: Well, that's a problem for the city, isn't it --

MS. NEVILLE: It is.

THE COURT: -- but is that a reason --

MS. NEVILLE: It's a problem for the process.

THE COURT: Is that a reason to put the brakes on?

MS. NEVILLE: Yes. It's a problem for the process because it sets us all into that litigation mode even if we were close to a --

THE COURT: I don't think Judge Rosen would tolerate that.

MS. NEVILLE: I don't know how to answer that.

THE COURT: Well, there is no answer. He's going to put you in mediation mode concurrently with Judge Rhodes' litigation mode.

MS. NEVILLE: And we are committed to that mediation, but --

THE COURT: Then what's the problem?

MS. NEVILLE: -- but we can't do both at the same time --

THE COURT: Of course you can.

MS. NEVILLE: -- and the eligibility trial showed that.

THE COURT: Of course you can. You're all very capable people, and you know how to do that. You've done it in other cases before.

MS. NEVILLE: Your Honor, it raises the hostility level.

THE COURT: Here's the problem with delay. Here's the problem with delay. The city will have no more money to pay you if I put this off two months, four months, six months. This is not a retail operation with a Christmas season coming.

MS. NEVILLE: I understand that, your Honor, but the debtor had $4-1/2 million to pay Barclays for a DIP financing that hasn't occurred. The poverty of the debtor is relative.

THE COURT: Administrative expenses are all the more reason to get to it here. They're not a reason to put it off.

MS. NEVILLE: And this will --

THE COURT: The longer we put it off --

MS. NEVILLE: I'm sorry.

THE COURT: -- the more Jones Day will charge, the more you will charge, the more the city will be obligated to pay.

MS. NEVILLE: But, your Honor, this schedule will generate more administrative expenses because it's a -- it's generating a hostile environment. I'm not asking for an indefinite extension. What we had discussed earlier today was getting together and giving the debtor our list of really critical documents and then setting a schedule with the debtor that really made some sense. The disclosure statement wasn't previewed on anybody. The scheduling motion wasn't previewed on anybody. The most critical thing here --

THE COURT: I look forward to your comments on the order that I entered yesterday.

MS. NEVILLE: I would just like to point out one thing. The most critical thing missing here from my perspective is that there's no mechanism in this plan for retirees to vote, to assess their claim or to vote. There's no mechanism in the disclosure statement.

THE COURT: It's in the Bankruptcy Code and the rules. Why does it have to be in here?

MS. NEVILLE: Your Honor, the retirees did not file -- were excluded from the bar date. They haven't filed

claims. They have no way of assessing what their claims are, and there's no mechanism --

THE COURT: But that has nothing to do with disclosure statement procedures, and so I look forward to your input on how to accommodate that.

MS. NEVILLE: You'll have them, your Honor.

THE COURT: All right. Thank you.

MS. PATEK: Your Honor, good afternoon. Barbara Patek on behalf of the Detroit public safety unions. Many of our concerns dealt with the paragraph 10 in the order which have been addressed, but the one comment that I do want to make with respect to the completeness issue is not that -- I mean the Detroit public safety unions, they wish we could be done yesterday, that we had our collective bargaining agreement and that we were moving forward, so we are not interested in hindering this process at all, but this is not a Chapter 11, and at some level I understand disclosure statements change throughout the process, but given who we are and who our members are -- and there are some other creditor constituencies similarly situated -- this process in a way is a substitute in Chapter 9 for these people's self-governance so that if it is a rolling process, we would only ask that the Court take that into consideration in setting deadlines to make sure that -- particularly for some of these individual claimants that their rights are protected.

THE COURT: Is there anyone on the phone who'd like to be heard with something new and different? All right. Mr. Bennett, you may proceed.

MR. BRUCE BENNETT: Your Honor, I'll be very, very brief. First of all, just so that we understand what we're really talking about here, there is actually a table of exhibits to the disclosure statement, and it shows up at page 11 of 440 in the filed version. And if people would look through that list of exhibits and compare the exhibits that were filed, you're actually going to find that each and every exhibit to the disclosure statement was, in fact, filed, so the completeness objection to the disclosure statement I think isn't quite right.

With respect to plan exhibits, I guess there are different ways to do this, but some of the plan exhibits are plan supplement documents. That's a relatively traditional concept for definitive documentation of agreements otherwise described, and so if it will help people to -- and it will reduce the graphic number of missing things quite a bit -- instead of having just plan exhibits, we can have plan exhibits that are plan supplement exhibits and plan exhibits that will ultimately accompany the plan. When you look at it that way, there are, indeed, a couple of blanks, maybe -- there are a few blanks. There are more than a couple of blanks, but they will be filled in, and they will be filled

in fairly rapidly. That having been said, by the way, it should -- it might be interesting to note that the COPs treatment that I suspect Syncora and EEPK are most interested in is completely described down to a term sheet to the relevant notes that are going to be distributed. Blanks I don't think affect the COPs at all.

So how are we going to do this? First of all, although the Court has set a deadline of March 14th for communications to the debtor concerning parts of the disclosure statement that people want supplemented or added to, no one should feel that they have to wait till March 14th or that they can only send me one e-mail, that if there are comments to the disclosure statement, I, frankly, would like to hear them as early as possible, and we'll get on them. We think this should be a cooperative process. I'll tell people something else, too, and I suspect I was going to hear this from your Honor at some point in time, which is think about parts we can cross out because it's a really big document, and at some point just making it longer and longer doesn't actually make it more informative. And we'd, frankly, like to find ways to streamline it in any way we possibly can.

As to the solicitation aspect of this, there is a separate solicitation procedures motion coming which will deal with the issue of how to take plan aggregates, which -- class aggregates, which is how plans are usually structured,

and bring them down to individual numbers. It's an important difficult question in part because there's more than 20,000 different calculations that have to be made, and I don't know about anyone else in this room, but I've done customized claim forms and voting forms before, but I've never done 20-plus thousand of them, and I'm a little afraid of the prospect, and we're looking at alterative ways to get that done, but there's a separate motion. That separate motion, by the way, will also deal with, just so everybody knows where it's coming, the whole issue of who votes because we understand that there are some disputes out there between beneficial holder and insurers. We have a specific procedure in mind just for that coming very, very soon.

We are -- there clearly will be amendments, and we'll bunch them, so we're not going to do them every day, but we're also not going to do them two days before the disclosure statement hearing. And in one respect I'd invite your Honor to amend one aspect of the order, which is in paragraph 11, where it talks about the on-line destinations where all the -- the disclosure statement is available. Your Honor might amplify that to say that also any amendments and modifications will also be on the website. There's already a provision that doesn't require us to serve them all, but it would be, I think, helpful to let people know that that's where they'll be, and we'll, of course, you know, file a

notice with a blackline whenever we go through one of these changes.

In any event, I think that it'll get better. I think comments from everyone here, if well-intentioned with a view to getting a disclosure statement document out that's at least accurate with respect to a plan that people may not like, we will generate a better disclosure statement, and I think one of the things we all have to concentrate on is a better disclosure statement not just for the lawyers and other professionals in the case that focus on this for a living but a better disclosure statement for people who don't, and that's the part, I suspect, that's going to be the most difficult. We look forward to all the help and cooperation we can get from everybody else, and thank you for your Honor's attention.

THE COURT: Okay. My only advice regarding your disclosure statement is, in my experience, there are two facts that creditors are most interested in in determining how to vote, and so I invite you to figure out a way to highlight these two facts for each type of creditor you've got and simplify it. The two facts are how much am I going to be paid and when.

MR. BRUCE BENNETT: I understand that, your Honor. We'll try hard to do that. I should also suggest that we -- that with respect to retirees, we're thinking about a

separate supplement that would -- so if you can imagine the package that will ultimately go out, there will be a disk with the big disclosure statement. Retirees will get a printed supplement that will, in fact, highlight that information or how they can get to it in a relatively straightforward way.

THE COURT: Good. That's very important.

MR. BRUCE BENNETT: Okay. Thank you very much, your Honor.

THE COURT: All right. I'm going to take this under advisement. Can you all submit through our order processing program a Word version of an order granting this motion that deletes paragraph 10 and adds what Mr. Bennett suggested, and then I'll have a look at that? All right. We'll be in recess.

THE CLERK: All rise. Court is in recess.

(Proceedings concluded at 2:37 p.m.)

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WITNESSES:

None

EXHIBITS:

None

I certify that the foregoing is a correct transcript from the sound recording of the proceedings in the above-entitled matter.

/s/ Lois Garrett February 27, 2014

Lois Garrett